

PROPOSED AMENDMENT

SENATE AMENDMENTS TO H.B. 2221

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 9, chapter 4, article 6, Arizona Revised Statutes,  
3 is amended by adding section 9-461.14, to read:

4 9-461.14. Green building program; requirements

5 A. ANY MUNICIPALITY THAT ESTABLISHES A MANDATORY GREEN BUILDING  
6 PROGRAM FOR ANY NEW RESIDENTIAL OR COMMERCIAL DEVELOPMENT SHALL PREPARE A  
7 GREEN BUILDING IMPACT ANALYSIS STUDY THAT INCLUDES:

8 1. DOCUMENTATION SHOWING THAT THE MUNICIPALITY EXAMINED A RANGE OF  
9 ALTERNATIVE GREEN BUILDING GUIDELINES.

10 2. AN EXPLANATION OF THE BASIS AND PURPOSE BY WHICH THE MUNICIPALITY  
11 SELECTED ITS PREFERRED ALTERNATIVE.

12 3. THE ESTIMATED MATERIAL AND INSTALLATION COSTS FOR EACH PROPOSED  
13 GREEN BUILDING COMPONENT.

14 4. THE PROJECTED REDUCTION, IF ANY, IN ENERGY, WATER, SEWER CAPACITY  
15 AND PROJECT MATERIAL USE, INCLUDING THE ANNUAL COST SAVINGS ASSOCIATED WITH  
16 EACH COMPONENT.

17 5. THE ESTIMATED TIME NEEDED, IF ANY, TO RECOVER THE MATERIAL AND  
18 INSTALLATION COSTS FOR EACH COMPONENT.

19 6. THE IMPACT ON NEW HOME PRICES AND LOW INCOME HOME BUYERS.

20 B. THIS CHAPTER DOES NOT CREATE ANY NEW PRIVATE RIGHT OF ACTION  
21 AGAINST THE MUNICIPALITY, ANY APPLICANT OR ANY PERSON ALLEGED TO HAVE  
22 VIOLATED THIS CHAPTER.

23 C. IT IS UNLAWFUL FOR A MUNICIPALITY OR ANY OTHER POLITICAL  
24 SUBDIVISION TO REQUIRE AS A CONDITION OF ANY LAND USE APPROVAL THAT A  
25 LANDOWNER PARTICIPATE IN ANY GREEN BUILDING PROGRAM OR DENY ANY LAND USE  
26 APPROVAL FOR NOT PARTICIPATING OR INSTALLING ANY GREEN BUILDING MEASURE THAT  
27 HAS NOT BEEN FORMALLY ADOPTED PURSUANT TO THIS SECTION.

28 D. THIS SECTION DOES NOT AFFECT ANY GREEN BUILDING PROGRAM ADOPTED  
29 BEFORE JANUARY 1, 2008.

1           Sec. 2. Section 9-462.01, Arizona Revised Statutes, is amended to  
2 read:

3           9-462.01. Zoning regulations: public hearing: definitions

4           A. Pursuant to the provisions of this article, the legislative body of  
5 any municipality by ordinance may in order to conserve and promote the public  
6 health, safety and general welfare:

7           1. Regulate the use of buildings, structures and land as between  
8 agriculture, residence, industry, business and other purposes.

9           2. Regulate signs and billboards.

10           3. Regulate THE location, height, bulk, number of stories and size of  
11 buildings and structures, the size and use of lots, yards, courts and other  
12 open spaces, the percentage of a lot which may be occupied by a building or  
13 structure, access to incident solar energy and the intensity of land use.

14           4. Establish requirements for off-street parking and loading.

15           5. Establish and maintain building setback lines.

16           6. Create civic districts around civic centers, public parks, public  
17 buildings or public grounds and establish regulations therefor.

18           7. Require as a condition of rezoning public dedication of  
19 rights-of-way as streets, alleys, public ways, drainage and public utilities  
20 as are reasonably required by or related to the effect of the rezoning.

21           8. Establish floodplain zoning districts and regulations to protect  
22 life and property from the hazards of periodic inundation. Regulations may  
23 include variable lot sizes, special grading or drainage requirements, or  
24 other requirements deemed necessary for the public health, safety or general  
25 welfare.

26           9. Establish special zoning districts or regulations for certain lands  
27 characterized by adverse topography, adverse soils, subsidence of the earth,  
28 high water table, lack of water or other natural or man-made hazards to life  
29 or property. Regulations may include variable lot sizes, special grading or  
30 drainage requirements, or other requirements deemed necessary for the public  
31 health, safety or general welfare.

32           10. Establish districts of historical significance provided that:

1                         (a) The ordinances may require that special permission be obtained for  
2 any development within the district if the legislative body has adopted a  
3 plan for the preservation of districts of historical significance which meets  
4 the requirements of subdivision (b) of this paragraph, and the criteria  
5 contained in the ordinance are consistent with the objectives set forth in  
6 the plan.

7                         (b) A plan for the preservation of districts of historical  
8 significance shall identify districts of special historical significance,  
9 state the objectives to be sought concerning the development or preservation  
10 of sites, area and structures within the district, and formulate a program  
11 for public action including the provision of public facilities and the  
12 regulation of private development and demolition necessary to realize these  
13 objectives.

14                         (c) The ordinance establishing districts of historical significance  
15 shall set forth standards necessary to preserve the historical character of  
16 the area so designated.

17                         (d) The ordinances may designate or authorize any committee,  
18 commission, department or person to designate structures or sites of special  
19 historical significance in accordance with criteria contained in the  
20 ordinance, and no designation shall be made except after a public hearing  
21 upon notice of the owners of record of the property so designated. The  
22 ordinances may require that special permission be obtained for any  
23 development respecting the structures or sites.

24                         11. Establish age specific community zoning districts in which  
25 residency is restricted to a head of a household or spouse who must be of a  
26 specific age or older and in which minors are prohibited from living in the  
27 home. Age specific community zoning districts shall not be **overlaid**  
28 **OVERLAID** over property without the permission of all owners of property  
29 included as part of the district unless all of the property in the district  
30 has been developed, advertised and sold or rented under specific age  
31 restrictions. The establishment of age specific community zoning districts

1       is subject to all of the public notice requirements and other procedures  
2       prescribed by this article.

3           12. Establish procedures, methods and standards for the transfer of  
4       development rights within its jurisdiction. Any proposed transfer of  
5       development rights from the sending property or to the receiving property  
6       shall be subject to the notice and hearing requirements of section 9-462.04  
7       and shall be subject to the approval and consent of the property owners of  
8       both the sending and receiving property. Prior to any transfer of  
9       development rights, a municipality shall adopt an ordinance providing for:

10              (a) The issuance and recordation of the instruments necessary to sever  
11       development rights from the sending property and to affix development rights  
12       to the receiving property. These instruments shall be executed by the  
13       affected property owners and lienholders.

14              (b) The preservation of the character of the sending property and  
15       assurance that the prohibitions against the use and development of the  
16       sending property shall bind the landowner and every successor in interest to  
17       the landowner.

18              (c) The severance of transferable development rights from the sending  
19       property and the delayed transfer of development rights to a receiving  
20       property.

21              (d) The purchase, sale, exchange or other conveyance of transferable  
22       development rights prior to the rights being affixed to a receiving property.

23              (e) A system for monitoring the severance, ownership, assignment and  
24       transfer of transferable development rights.

25              (f) The right of a municipality to purchase development rights and to  
26       hold them for resale.

27           B. For the purposes prescribed in subsection A of this section the  
28       legislative body may divide a municipality, or portion of a municipality,  
29       into zones of the number, shape and area it deems best suited to carry out  
30       the purpose of this article and articles 6, 6.2 and 6.3 of this chapter.

1           C. All zoning regulations shall be uniform for each class or kind of  
2 building or use of land throughout each zone, but the regulations in one type  
3 of zone may differ from those in other types of zones as follows:

4           1. Within individual zones, there may be uses permitted on a  
5 conditional basis under which additional requirements must be met, including  
6 requiring site plan review and approval by the planning agency. The  
7 conditional uses are generally characterized by any of the following:

- 8           (a) Infrequency of use.  
9           (b) High degree of traffic generation.  
10          (c) Requirement of large land area.

11          2. Within residential zones, the regulations may permit modifications  
12 to minimum yard lot area and height requirements.

13          D. To carry out the purposes of this article and articles 6 and 6.2 of  
14 this chapter, the legislative body may adopt overlay zoning districts and  
15 regulations applicable to particular buildings, structures and land within  
16 individual zones. For the purposes of this subsection, "overlay zoning  
17 district" means a special zoning district that includes regulations which  
18 modify regulations in another zoning district with which the overlay zoning  
19 district is combined. Overlay zoning districts and regulations shall be  
20 adopted pursuant to section 9-462.04.

21          E. The legislative body may approve a change of zone conditioned upon  
22 a schedule for development of the specific use or uses for which rezoning is  
23 requested. If at the expiration of this period the property has not been  
24 improved for the use for which it was conditionally approved, the legislative  
25 body, after notification by certified mail to the owner and applicant who  
26 requested the rezoning, shall schedule a public hearing to take  
27 administrative action to extend, remove or determine compliance with the  
28 schedule for development or take legislative action to cause the property to  
29 revert to its former zoning classification.

30          F. All zoning and rezoning ordinances or regulations adopted under  
31 this article shall be consistent with and conform to the adopted general plan  
32 of the municipality, if any, as adopted under article 6 of this chapter. In

1       the case of uncertainty in construing or applying the conformity of any part  
2       of a proposed rezoning ordinance to the adopted general plan of the  
3       municipality, the ordinance shall be construed in a manner that will further  
4       the implementation of, and not be contrary to, the goals, policies and  
5       applicable elements of the general plan. A rezoning ordinance conforms with  
6       the land use element of the general plan if it proposes land uses, densities  
7       or intensities within the range of identified uses, densities and intensities  
8       of the land use element of the general plan.

9           G. No regulation or ordinance under this section may prevent or  
10          restrict agricultural composting on farmland that is five or more contiguous  
11          acres and that meets the requirements of this subsection. An agricultural  
12          composting operation shall notify in writing the legislative body of the city  
13          or town and the nearest fire department of the location of the composting  
14          operation. If the nearest fire department is located in a different city or  
15          town from the agricultural composting operation, the agricultural composting  
16          operation shall also notify in writing the fire department of the city or  
17          town in which the operation is located. Agricultural composting is subject  
18          to the provisions of sections 3-112 and 49-141. Agricultural composting may  
19          not be conducted within one thousand three hundred twenty feet of an existing  
20          residential use, unless the operations are conducted on farmland or land  
21          leased in association with farmland. Any disposal of manure shall comply  
22          with section 49-247. For purposes of this subsection:

23           1. "Agricultural composting" means the controlled biological  
24          decomposition of organic solid waste under in-vessel anaerobic or aerobic  
25          conditions where all or part of the materials are generated on the farmland  
26          or will be used on the farmland associated with the agricultural composting  
27          operation.

28           2. "Farmland" has the same meaning prescribed in section 3-111 and is  
29          subject to regulation under section 49-247.

30           H. A CITY OR TOWN MAY NOT ADOPT A LAND USE REGULATION OR IMPOSE ANY  
31          CONDITION FOR ISSUANCE OF A BUILDING OR USE PERMIT OR OTHER APPROVAL THAT  
32          VIOLATES SECTION 9-461.14.

1           **~~H.~~ I.** For purposes of this section:

2       1. "Development rights" means the maximum development that would be  
3       allowed on the sending property under any general or specific plan and local  
4       zoning ordinance of a municipality in effect on the date the municipality  
5       adopts an ordinance pursuant to subsection A, paragraph 12 of this section  
6       respecting the permissible use, area, bulk or height of improvements made to  
7       the lot or parcel. Development rights may be calculated and allocated in  
8       accordance with factors including dwelling units, area, floor area, floor  
9       area ratio, height limitations, traffic generation or any other criteria that  
10      will quantify a value for the development rights in a manner that will carry  
11      out the objectives of this section.

12      2. "Receiving property" means a lot or parcel within which development  
13      rights are increased pursuant to a transfer of development rights. Receiving  
14      property shall be appropriate and suitable for development and shall be  
15      sufficient to accommodate the transferable development rights of the sending  
16      property without substantial adverse environmental, economic or social impact  
17      to the receiving property or to neighboring property.

18      3. "Sending property" means a lot or parcel with special  
19      characteristics, including farmland, woodland, desert land, mountain land,  
20      floodplain, natural habitats, recreation or parkland, including golf course  
21      area, or land that has unique aesthetic, architectural or historic value that  
22      a municipality desires to protect from future development.

23      4. "Transfer of development rights" means the process by which  
24      development rights from a sending property are affixed to one or more  
25      receiving properties."

26      Amend title to conform

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4/3/08  
8:25 AM  
S: JL/jas